

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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NOE AVALOS MONTANO.,

Plaintiff,

vs.

1:12-CV-1163

TORTILLA HEAVEN, INC., *et al.*,

Defendants.

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**JUDGMENT DISMISSING ACTION BY REASON OF SETTLEMENT**

The Court having been advised by counsel that the above entitled action has been settled, or is in the process of reaching a settlement, it is unnecessary for the action to remain active on the Court's calendar. Therefore, it is

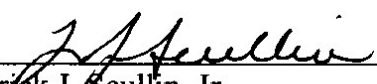
**ORDERED** that the action is dismissed **WITHOUT PREJUDICE** and that the Court will retain jurisdiction to vacate this order and reopen the action for good cause shown that the settlement was not consummated and that further litigation is necessary, upon a motion by any party **within 60 days from the date of this order**. It is further

**ORDERED** that if no motion is filed, the dismissal will become **WITH PREJUDICE on the 61<sup>st</sup> day after the date of this order**. It is further

**ORDERED** that upon reaching a final settlement, the parties shall file, with the Court, a stipulation of discontinuance and/or a settlement agreement. It is further

**ORDERED** that the Clerk shall serve copies of this judgment upon all counsel via electronic means.

Date: March 5, 2013  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge